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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/785,547      | 02/24/2004  | Keith Patrick Heaton | COO.441A.US         | 8146             |
| 30159           | 7590        | 12/22/2005           |                     |                  |
|                 |             |                      | EXAMINER            |                  |
|                 |             |                      | GIBSON, ROY DEAN    |                  |
|                 |             |                      | ART UNIT            | PAPER NUMBER     |
|                 |             |                      | 3739                |                  |

DATE MAILED: 12/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |
|------------------------------|------------------------|---------------------|
|                              | 10/785,547             | HEATON ET AL.       |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |
|                              | Roy D. Gibson          | 3739                |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 12 October 2005.

2a)  This action is FINAL.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-23 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1,6,14,15 and 21-23 is/are rejected.

7)  Claim(s) 2-5,7-13 and 16-20 is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.  
\_\_\_\_\_

## **DETAILED ACTION**

### **Formal Matters**

In an interview with the attorney of record on December 5, 2005, the examiner suggested amending claim 1 to limit the air tent to being sized to cover a single patient. This amendment would over come the rejections of the last Office action using Nilsson as the 102(b) reference. However, after additional searching of the patent data base the examiner has found new grounds of rejection as presented below.

### ***Claim Objections***

Claim 14 is objected to because of the following informalities: in line 7, "to" should be inserted after "system". Appropriate correction is required.

### **Claim Rejections - 35 U.S.C. § 102**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 14, 15 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Kano et al. (5,832,919).

As to claim 1, Kano et al. disclose an apparatus comprising:

a framework of inflatable tubes (tubular cross-section as in Figure 1-5);

a patient-enclosing air-tent (Figure 1 with panels 12, 14 and 20) mounted on the framework of inflatable tubes; and  
an air inlet (38 and hose 36) connected to an air-cooling system (fan # 34 and col. 4, line 13-col. 5, line 50).

As to claim 14, Kano et al. further disclose an apparatus with a pressurized air source for inflating the tubular framework; and wherein the panels 12 and 14 are transparent windows (col. 4, lines 13-18).

As to claim 22, Kano et al. further disclose a patient support (Figure 6, sleeping surface # 50 and col. 5, lines 52-62).

Claims 1, 6, 14, 21 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Deaton (3,710,791).

As to claim 1, Deaton discloses an apparatus comprising:  
a framework of inflatable tubes (tubular cross-section as in Figure 6-8);  
a patient-enclosing air-tent (Figure 6 with panel 70) mounted on the framework of inflatable tubes; and  
an air inlet and valve stem (67) connected to an air-cooling system in Figure 6 or air inlet (104) for Figure 8 (col. 7, line 15-col. 8, line 57).

As to claims 6 and 21-22, Deaton further discloses a plurality of air bags (Figure 8, # 80) forming an air mattress for the patient;  
a high pressure source for inflating the air bags; and  
a fluid connection between the air bags and the air cooling system, wherein the air bags can be pressurized as required (col. 8, lines 3-19).

As to claim 14, Deaton further discloses an apparatus with a pressurized air source for inflating the tubular framework, wherein the air-cooling system provides cold air to the interior of the patient-enclosing air tent (col. 8, lines 33-50).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kano et al. in view of Schmidt (5,928,273). Kano et al. fail to specifically disclose a coaxial hose for passing the air/fluid into and out of the thermal enclosure/tent. But, Schmidt discloses a coupling device for connecting a medical therapy device to a supply (Figure 2) in which the supply and return lines (5 and 6) are coaxial and form hose 20 (col. 2, lines 56-64). Therefore, at the time of the invention it would have been obvious to one of ordinary skill in the art to modify the device of Kano et al. as taught by Schmidt, to provide a coaxial hose as an alternative equivalent means of supplying and exhausting the air within the tent.

### **Allowable Subject Matter**

Claims 2-5, 7-13 and 16-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### **Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Gantz (4,237,914) discloses an inflatable air tent (Figure 17);

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Pat. No. (4,000,749) discloses an inflatable air tent and support mattress; and Hartman (2,104,589) discloses a portable air cooling system for a patient's bed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roy D. Gibson whose telephone number is 571-272-4767. The examiner can normally be reached on Tu-Th, 7:30 am-4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on 571-272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Roy D. Gibson  
Primary Examiner  
Art Unit 3739

December 20, 2005